

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LIONEL WHITE,  
Plaintiff;  
v.  
UNITED STATES of AMERICA  
Defendant.

NO.

# COMPLAINT FOR PERSONAL INJURIES

UNITED STATES of AMERICA,  
Defendant.

COMES NOW the Plaintiff LIONEL WHITE, by and through his attorney of record, C. Steven Fury and states:

## I. PARTIES

- 1.1 Plaintiff Lionel White resides in Gig Harbor, Washington.
- 1.2 Defendant is the United States of America.

## II. VENUE

2.1 The events forming the basis of this action took place at the Puget Sound Naval Shipyard located in Bremerton, Kitsap County, Washington.

2.2 The Plaintiff resides in Gig Harbor, Pierce County, Washington.

2.3 Pursuant to 28 U.S.C. § 1402(b), this court is the appropriate venue for this action.

### III. JURISDICTION

3.1 This action is filed under the Federal Tort Claims Act. The court has subject matter jurisdiction under 28 U.S.C. § 1334(b).

#### 1                   **IV. ADMINISTRATIVE CLAIM**

2       4.1 On or about May 19, 2010, Plaintiff filed an administrative law claim  
3 pursuant to 28 U.S.C. § 2675 with the Navy Judge Advocate General, the  
4 Commander of the Puget Sound Naval Shipyard, and the Naval Legal Service  
5 Office Mid-Atlantic. The Department of the Navy gave notice on June 29, 2011  
6 that the claim was denied.

#### 7                   **V. FACTS**

8       5.1 On December 15, 2008, Plaintiff Lionel White was employed by  
9 AMSEC LLC as a ship fitter/sheet metal worker servicing a naval vessel at the  
10 Puget Sound Naval Shipyard ("PSNS"), located in Bremerton, Kitsap County,  
11 Washington.

12      5.2 On that same date, at approximately 6:00 AM, Plaintiff was on board  
13 a United States Navy ship, located in dry dock six of PSNS, to receive his daily  
14 work assignment. Plaintiff was assigned as a fire watch for safety purposes.

15      5.3 Plaintiff left the ship from a gangway and walked south to a conex  
16 container box at the end of the dry dock wall where he retrieved a full sized,  
17 portable fire extinguisher as part of his assigned duties.

18      5.4 The sun had not yet risen and the lighting in the area was poor and  
19 inadequate.

20      5.5 Plaintiff walked north alongside a set of steel tracks that run parallel  
21 to the dry dock carrying the fire extinguisher to return to the ship. When Plaintiff  
22 was close to the gangway, he tripped on a piece of metal rod protruding from the  
23 walking surface.

24      5.6 Plaintiff fell, landing on his right side with his right arm striking one  
25 of the metal tracks.

27      Complaint ~ 2

PO Box 20397  
710 Tenth Avenue East  
Seattle, WA 98102  
T: (206) 726-6600  
F: (206) 726-0288

**FURY**  
**BAILEY, PS**

5.7 The metal rod was approximately  $\frac{1}{4}$  inch in diameter and was protruding approximately  $\frac{3}{4}$  inch above the walking surface. The piece of rod presented a dangerous tripping hazard in the walking surface.

5.8 At all times material hereto, Defendant United States was responsible for providing and maintaining a safe, and healthful workplace free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to employees.

5.7 Defendant United States was negligent for failure to provide and maintain a safe workplace, including, but not limited to failing to remove the protruding metal rod from the walking surface that created a dangerous condition, failing to warn of the hazardous tripping condition in the walking surface and failing to provide adequate lighting.

5.8 Defendant's negligence proximately caused Plaintiff to trip and fall on December 15, 2008, and suffer injuries and damages.

## VI. INJURIES AND DAMAGES

6.1 As a direct and proximate result of Defendant's negligence, Plaintiff Lionel White suffered personal injuries. These injuries include, but are not limited to, a large full thickness rotator cuff tear in the right shoulder, and contusions to his right lateral hip, right elbow, and bilateral knees. The full extent of these injuries has not yet been fully determined.

6.2 As a direct and proximate result of Defendant's negligence, Plaintiff Lionel White has incurred medical expenses, and suffered pain, anguish, disability, loss of earnings, loss of earning capacity, and loss of ability to enjoy life. He will continue to suffer such damages into the future.

## **VII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant for the following relief:

1. Special damages to be proven at trial;
2. General damages to be proven at trial, stated for the purposes of this pleading and in keeping with the allegation made in the administrative claim filed pursuant to 28 U.S.C. § 2675, shall not be in excess of \$1,000,000;
3. Attorney's fees and costs; and
4. For such other relief as justice and equity may require.

DATED this 14<sup>th</sup> day of July, 2011.

FURY BAILEY, PS

/s C. Steven Fury  
C. STEVEN FURY, WSBA 8896  
FRANCISCO A. DUARTE, WSBA 24056  
710 – 10<sup>th</sup> Ave. E.  
P.O. Box 20397  
Seattle, WA 98102  
(206) 726-6600  
(206) 726-0288 (fax)  
[steve@furybailey.com](mailto:steve@furybailey.com)  
[fad@furybailey.com](mailto:fad@furybailey.com)  
Attorney for Plaintiff

Complaint ~ 4

**FURY  
BAILEY, PS** PO Box 20397  
710 Tenth Avenue East  
Seattle, WA 98102  
T: (206) 726-6600  
F: (206) 726-0288